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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/814,512 | 04/01/2004 | George L. Kerber | 20-010-DIV | 6471 |
| 23400 | 7590 | 11/16/2005 | EXAMINER | |
| POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191 | | | RICHARDS, N DREW | |
| | | ART UNIT | PAPER NUMBER | |
| | | | 2815 | |

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Ex

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/814,512 | KERBER, GEORGE L. | |
| | Examiner | Art Unit | |
| | N. Drew Richards | 2815 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 18-22,24-26 and 28 is/are allowed.
- 6) Claim(s) 27 is/are rejected.
- 7) Claim(s) 29 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al., "RHEA Process for Fine-Geometry Josephson Junction Fabrication." (previously made of record in the IDS filed 3/24/2004).

Lee discloses Nb/AI-AlOx/Nb Josephson junctions wherein the upper Nb layer is patterned with a circular resist mask and subsequently partially etched, followed by an anodization step for forming junction areas on the order of 0.8 μm (see e.g., Fig 1 and the caption associated with Fig 5).

With regard to claim 27, Lee discloses:

- a base electrode (lower Nb);
- a tunnel barrier layer disposed above the base electrode (barrier);
- a counter electrode portion (upper Nb) disposed above an unexposed portion of the tunnel barrier layer (the portion of the barrier layer directly under the upper Nb layer is the "unexposed portion") and
- an anodization ring (anodized Nb) disposed around a perimeter of the counter electrode portion and the unexposed portion of the tunnel barrier layer for

preventing a short-circuit between an outside contact and the base electrode layer, the anodization ring including an anodized portion of the tunnel barrier layer anodized from an exposed portion of the tunnel barrier layer (the tunnel barrier underneath the anodized Nb in figure 1(d) is anodized, this portion is considered "exposed" since it is exposed to the anodization process); wherein:

- a tunnel junction region is defined by the counter electrode layer, the unexposed portion of the tunnel barrier layer and the base electrode layer, the tunnel junction region including a junction contact defined by a top surface of the counter electrode, the junction contact having a diameter of approximately 1.0 micron or less.

Allowable Subject Matter

3. Claims 18-22, 24-26 and 28 are allowed.
4. Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 8/26/05 have been fully considered but they are not persuasive.

Applicant has argued that Lee does not teach the anodization ring including an anodized portion of the tunnel barrier layer anodized from an exposed portion of the

tunnel barrier layer. This is not persuasive. Lee teach on page 3135, paragraph 1, lines 2-4, that the barrier layer is oxidized during anodization. Though not explicitly stated, it is understood that the portion of the barrier layer that is anodized is the portion underneath the "Anodized Nb" in figure 1(d). This portion is considered to be an "exposed" portion since it is exposed to the anodization process. Thus, the anodization ring includes an anodized portion of the tunnel barrier layer anodized from an exposed portion of the tunnel barrier layer as recited in claim 27.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Drew Richards whose telephone number is (571) 272-1736. The examiner can normally be reached on Monday-Friday 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



N. Drew Richards
AU 2815